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REMARKS

Claims 1-20 remain in this application. Claims 1-20 are rejected. Claims 1, 3, 5, 7-10, 14-16, 19 and 20 are amended herein to clarify the invention and to address matters of form unrelated to substantive patentability issues.

The applicants and applicants' attorney appreciate the Examiner's granting of the telephone interviews conducted on August 5, 2003 and September 15, 2003, and extend their thanks to the Examiner for her time and consideration.

During the interviews, the issue of adding a positive recitation directed in substance to the fact that, in accordance with the invention, a second player can enter and participate in the musical play in the middle of a performance initiated by a first player. While not guaranteeing with certainty whether adding such limitation would or would not require a further search, the Examiner indicated that consideration would be given to such language, at least as patentably distinguishing over the present art cited in support of the rejections.

Further discussed, was the patentability of claims 9 and 16, and in particular the fact that the cited Takai reference merely discloses an instruction device which demonstrates various selected step patterns on a display as a sequence of foot statuses on a foot position pattern read out from a dance data memory, and does not even involve any user-interaction or user-input beyond selection of dance type and whether the dancer is a man or woman. The Examiner agreed that Takai does not teach the

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claimed limitations of claims 9 and 16, as reflected in the Examiner's Interview Summary, and further agreed to favorably consider these limitations if the claimed were placed in independent form.

The amendments made herein reflect the above understandings had as a result of the interview.

Applicants herein traverse and respectfully request reconsideration of the rejection of the claims and objection cited in the above-referenced Office Action.

Claims 1-8, 10-15 and 17-20 are rejected as obvious over Sitrick (US 6,084,168) under 35 U.S.C. §103(a). The applicants herein respectfully traverse this rejection.

For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

It is respectfully submitted that a *prima facie* case of obviousness could not be established in the rejection of the claims as presently written. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or

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suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." MPEP §706.02(j) "Contents of a 35 U.S.C. §103 Rejection".

As argued in the applicants' previous amendment, the claimed invention of each of the independent claims allows a second player to participate in the musical play in the middle of a performance initiated by a first player. Although Sitrick discloses a plurality of music work stations, each at which a player (musician) can read musical notation and play it with his/her musical instrument and in which a synchronization process is performed to maintain harmony among the music played by the plural musicians, there is no provision for allowing an additional player to participate in the musical play in the middle of a performance already commenced by a first player.

The Examiner comments in the final Office Action at Page 4 in the section directed to "Examiner's Response to Applicant's Remarks" that with regard to the argued feature which allows a second game player to enter into musical play in the middle of a performance already commenced, "Applicant is arguing language that is different from the claim language. Applicant's instant claims do not include language that indicates that a player is entering a performance in the middle of a session."

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Consequently, applicants have amended independent claims 1, 10 and 20 to positively recite this feature argued as lacking from the disclosure of Sitrick, which is silent regarding the transferring of a portion of musical data corresponding to a part thereof from the position calculated by the second reproduction calculator.

Thus, it is respectfully submitted that rejected independent claims 1, 10 and 20, and claims 2-8, 11-15 and 17-19 which depend from respective ones thereof, are not obvious in view of the cited reference for the reasons stated above. Reconsideration of the rejections of claims 1-8, 10-15 and 17-20 and their allowance are respectfully requested.

Claims 9 and 16 are rejected as obvious over Sitrick (US 6,084,168) in view of Takai (US 6,116,908) under 35 U.S.C. §103(a). The applicants herein respectfully traverse this rejection.

As agreed by the Examiner during the interviews referenced above, the Takai reference fails to teach a plurality of stepping sections on which the game players step, and merely discloses an instruction device which demonstrates various selected step patterns on a display as a sequence of foot statuses on a foot position pattern read out from a dance data memory. Since Sitrick admittedly lacks teaching relating to stepping sections to input stepping motions, the proffered combination of references fails to teach all claimed elements, as is required for properly establishing a *prima facie* case of obviousness.

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Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited references for the reasons stated above. Furthermore, the claims are rewritten in independent form as suggested by the Examiner in the Interview Summary, and are therefore believed to be in condition for allowance. Reconsideration of the rejections of claims 9 and 16 and their allowance are respectfully requested.

Two (2) further independent claims in excess of three are added. Accordingly, please charge the fee of \$168 to Deposit Account No. 10-1250. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Applicant respectfully requests a three month extension of time for responding to the Office Action. Please charge the fee of \$930.00 for the extension of time to Deposit Account No. 10-1250. A Notice of Appeal accompanies this response.

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In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Respectfully submitted,
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